



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** William F. Sherry, A.A.E.  
Director of Aviation

**SUBJECT: AWARD OF GROUND LEASE AND  
OPERATING AGREEMENT TO  
SIGNATURE FLIGHT SUPPORT**

**DATE:** March 18, 2013

Approved

Date

3/26/13

## RECOMMENDATION

- a. Consider the appeal by Atlantic Aviation, regarding the Report on Request for Proposals (RFP) for General Aviation Aeronautical Services Facilities at the Norman Y. Mineta San Jose International Airport and adopt a resolution setting forth the decision of the City Council.
- b. Report on RFP for General Aviation Aeronautical Services Facilities at the Norman Y. Mineta San Jose International Airport and adopt a resolution authorizing the City Manager to:
  1. Negotiate and execute a ground lease and operating agreement with Signature Flight Support for the construction and operation of a Fixed Based Operation (FBO) on approximately 29 acres at the west side of the Airport for a fifty (50) year term from the date of execution by the City and with interim construction ground rent commencing upon the date of execution by the City, in the amount of \$1,319,084 until the earlier of the twenty-fifth (25th) month from the date of execution by the City or the date a certificate of occupancy is issued for the use and occupancy of the leasehold improvements, and subsequent annual ground rent in the amount of \$2,638,168, subject to annual Consumer Price Index increases, and subject to increase by appraisal every five (5) years during the term of the lease;
  2. Negotiate and execute amendments to the ground lease and operating agreement at any time during the first five (5) years of the term to modify the lease boundaries of the site, and to expand or contract the lease size as necessary to maximize the use of available land on the west side of the Airport for any land included in the scope of the RFP; and
  3. Negotiate and execute a Non-Disturbance, Consent, Estoppel and Subordination Agreement with Signature Flight Support Corporation and BCH San Jose LLC to provide for the continued use and occupancy of approximately nineteen (19) acres

of the leasehold by BCH San Jose LLC pursuant to the terms of a new ground lease and operating agreement between the City and BCH San Jose LLC on the same terms and conditions as the ground lease and operating agreement with Signature Flight Support Corporation, in the event that the lease with Signature is rejected in bankruptcy, terminated or otherwise cancelled at any time prior to the end of its fifty (50) year term.

## **OUTCOME**

The proposed Signature Flight Support FBO development will result in a new, world class general aviation operator at the Airport serving the public and corporate general aviation operators. The proposed development will result in a capital investment by Signature of approximately \$82 million, guaranteed annual revenue to the Airport of \$3 million; and guaranteed annual tax revenue to the region of up to \$300 thousand. The Non-Disturbance, Consent, Estoppel and Subordination Agreement provides that the City will not interfere with the use and occupancy of approximately nineteen (19) acres of the development by Signature Flight Support's subtenant, Blue City Holdings San Jose, LLC, so long as Blue City remains current on all of its sublease obligations, and the Agreement also provides that the City will enter into a new ground lease and operating agreement between the City and BCH San Jose LLC on the same terms and conditions as the ground lease and operating agreement with Signature Flight Support Corporation, in the event that the lease with Signature is rejected in bankruptcy, terminated or otherwise cancelled at any time prior to the end of its fifty (50) year term. Delegation of authority to adjust the boundaries and size of the leased area will provide staff with the ability to work with Signature to maximize the use of available land while allowing for construction to proceed in a timely manner.

## **EXECUTIVE SUMMARY**

The adopted Airport Master Plan identifies the West Side of the Airport for development of facilities to accommodate a projected growth in general aviation service demand. In April 2012 the Council directed staff to proceed with a Request for Proposals (RFP) for the development of the West Side of the Airport. Development areas included 44 acres directly north of the air traffic control tower and 15 acres in the south west area including the existing Airport operated general aviation facilities and former San Jose State leasehold. In June 2012 the City developed and released a **draft** RFP for review and comment by interested stakeholders. Extensive efforts were undertaken to ensure that potential respondents had the opportunity to comment on the draft RFP. The City issued the final RFP in August 2012.

The City received proposals from Atlantic Aviation, Ross Aviation and Signature Flight Support. All three proposals were screened against the minimum qualifications requirements contained in the RFP. The proposals from Atlantic Aviation and Ross Aviation were determined to be non-responsive.

Signature proposes to construct a full-service, world-class fixed base operation in partnership with Blue City Holdings San Jose, LLC (BCHSJ), a corporation representing the personal aircraft of the principals at Google, headquartered in Mountain View, CA. Signature proposes to construct an approximately 29-acre, \$82 million facility. Key facility and service components include over 270,000 square feet of LEED Gold standard facilities containing:

- ✓ an executive terminal;
- ✓ hangars;
- ✓ ramp space accommodating the largest business jets (such as the Boeing Business Jet (BBJ 737) and Boeing B767); and
- ✓ aircraft servicing facilities.

Key economic benefits offered in the Signature proposal include:

- ✓ \$2.6 million annually in rent to the Airport;
- ✓ A minimum annual guarantee of \$400,000 in annual fuel flowage fee revenues to the Airport;
- ✓ A minimum annual tax generation guarantee of \$70,000 (first year) to \$300,000 (year 5 and onwards);
- ✓ 150 to 200 on-Airport and regional construction jobs;
- ✓ 36 permanent on-Airport jobs; and
- ✓ 370 direct and indirect jobs generated

The proposal from Signature was evaluated as thorough, financially stable, and of high quality, scoring 991 points out of a possible 1,000 points (99.1%). The Signature proposal offers a strong likelihood of creating: construction and permanent jobs at the Airport and hundreds of direct and indirect jobs within the region; generating target revenues for the Airport and the City's General Fund; and providing high quality corporate aviation services to the general aviation customer. Based on this assessment, staff recommends:

- The delegation of authority to the Administration to award a ground lease and operating agreement to Signature Flight Support with a 50 year term.
- The delegation of authority to the Administration to amend the ground lease and operating agreement to adjust the lease boundaries as necessary to maximize the use of available land on the west side of the Airport.
- The delegation of authority to the Administration to enter into a Non-Disturbance, Consent, Estoppel and Subordination Agreement with Signature Flight Support Corporation and BCH San Jose LLC.

## **BACKGROUND**

The adopted Airport Master Plan currently designates the west side of the Airport for development of facilities to accommodate projected growth in general aviation demand,

including: 1) the conversion of the recently-closed public long-term and employee parking lot north of the FAA Air Traffic Control Tower; 2) the reconfiguration of existing facilities and the former San Jose State University leasehold south of the Control Tower; and 3) improvement to several taxiways to expedite safe and efficient aircraft access to and from the runways.

General aviation is characterized as all aircraft operations other than military and scheduled airline and cargo flights, ranging from small propeller-driven aircraft to large corporate or private jets. A map depicting the various areas of the Airport referred to in this report is attached as Exhibit A.

On April 3, 2012, the Council directed staff to move forward with an RFP for development on the west side of the Airport with the following key conditions:

1. Allow proposals for any general aviation use consistent with the adopted Airport Master Plan and allowed by the FAA;
2. Proposers be allowed to propose acreage needs and best location to site their proposed use on the available land, with the City reserving the right to approve the final location;
3. The City to consider the potential to select more than one proposal if multiple complementary and high-ranked proposals are received;
4. The highest priority selection criteria should be total revenue generated to the Airport followed by revenues generated to the City's General Fund; and
5. Return to the Airport Competitiveness Committee meeting in May 2012 with an overview of the terms and conditions of the proposed RFP prior to releasing the RFP to the public.

Staff presented the proposed RFP terms and conditions at the May 18, 2012 meeting of the Airport Competitiveness Committee. At that meeting, staff received comments from the Committee and members of the public for consideration in the issuance of the RFP.

### **RFP Public Outreach and Comment Period**

On June 29, 2012, a draft RFP was developed and released on the Airport's public web site to allow for review and comment by interested stakeholders. The following outreach was performed to ensure that potential respondents were aware of the opportunity to provide input on the draft RFP:

1. Email notifications were sent to 336 potential proposers and interested stakeholders – many of whom had expressed past interest in developing facilities on the West Side – providing the draft RFP and information on how to submit comments;
2. A dedicated notification banner and hyperlink to the draft RFP and other supporting documents were posted on the main page of the Airport's public website and maintained throughout the RFP process. The link to the website is:

<http://www.flysanjose.com/fl/about.php?page=improve/westside&exp=1&subtitle=Airport+Improvement+West+Side+Development>;

3. An outreach meeting for interested parties was held on July 12, 2012 at the Airport Administrative Offices;
4. The Director of Aviation communicated directly with the Silicon Valley Leadership Group and the Silicon Valley Chamber of Commerce to encourage both organizations to make their membership aware of the opportunity to participate in the development of the final RFP; and
5. Staff presented the draft RFP at the July meeting of the Northern California Business Aviation Association.

Staff posted responses on the Airport's public website to all 159 questions and comments received from the public during the review period for the draft RFP and all stakeholders were notified of the availability and location of the responses.

The final RFP was issued on August 9, 2012 on both the Airport's public website and the City's public Bid Sync site. Potential proposers and stakeholders were notified by email of its availability. Advertising was placed in appropriate publications, including the National Air Transportation Association and Professional Pilot Magazine, to encourage the broadest public notification of the outreach effort. Interested parties had the opportunity to ask additional questions through the Airport's public website and at a mandatory pre-proposal conference and site tour held on August 30, 2012. On September 24, 2012 staff posted responses on Bid Sync and the Airport website to all 194 questions received during the RFP comment/question period.

### **Evaluation of Submitted Proposals**

Three proposals were received by the RFP deadline of December 4, 2012. The proposals are summarized in Exhibit B. Proposals were received from Atlantic Aviation (an existing fixed-base operator (FBO) on the Airport), Ross Aviation and Signature Flight Support.

The RFP-designated Airport staff contact, a Senior Auditor, screened the three proposals against the minimum qualifications requirements set forth in the RFP. The proposals from both Atlantic Aviation and Ross Aviation were determined to be non-responsive, and a notice of disqualification was sent to both proposers on December 19, 2012 for the following reasons:

- The Atlantic Aviation proposal did not address, or failed to include, several documents that were required by the RFP. The Atlantic Aviation proposal contained nine areas of omitted information or documentation.
- The Ross Aviation proposal did not meet the minimum requirements for aviation fuel storage.

## **ANALYSIS**

### **Appeals**

Both Atlantic and Ross submitted letters of appeal to the City's designated Protest Hearing Officer, a Division Manager in the Finance Department, as provided for in the RFP. The Protest Hearing Officer upheld both disqualifications and notified the proposers in writing on January 28, 2013. Copies of the letters of appeal from both Atlantic and Ross and the decisions of the Protest Hearing Officer on the appeals are attached as Exhibit C. Atlantic Aviation submitted a notice of appeal to the City Council on February 15, 2013. Staff will notify Atlantic Aviation of the deadlines for submitting argument and evidence and the procedures for the appeal when this recommendation is placed on the Council Agenda.

### **Signature Flight Support Proposal Summary**

Signature Flight Support is the largest FBO in the world (113 locations on 5 continents). It is part of BBA Aviation Corporation, a British corporation, and is a publicly traded company listed on the London Stock Exchange. In the United States, Signature has FBO facilities at Chicago O'Hare International Airport, Teterboro Airport (New Jersey), Boston Logan International Airport, San Francisco International Airport and Palm Springs International Airport, among other commercial and general aviation airports. A complete list of airports where Signature currently operates is attached as Exhibit D.

Signature proposes to construct a full-service, world-class fixed base operation in partnership with Blue City Holdings San Jose, LLC (BCHSJ), a corporation representing the personal aircraft of the principals at Google, headquartered in Mountain View, CA. Signature proposes to construct an approximately 29-acre, \$82 million facility. Key facility and service components include over 270,000 square feet of LEED Gold standard facilities containing:

- ✓ an executive terminal;
- ✓ hangars;
- ✓ ramp space accommodating the largest business jets (such as the Boeing Business Jet (BBJ 737) and Boeing B767); and
- ✓ aircraft servicing facilities.

Key economic benefits offered in the Signature proposal include:

- ✓ \$2.6 million annually in rent to the Airport;
- ✓ A minimum annual guarantee of \$400,000 in annual fuel flowage fee revenues to the Airport;
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A more detailed summary of the Signature proposal is contained in Exhibit E. The proposed site for Signature's facilities is shown on Exhibit F. Renderings of Signature's proposed facilities are attached as Exhibit G.

Evaluation of the Signature Flight Support Proposal

The Signature Flight Support proposal was reviewed by the Evaluation Panel in accordance with the evaluation criteria set forth in the RFP. The membership of the Evaluation Panel consisted of industry experts in the subject areas identified in the RFP, including:

- *John Aitken* – Deputy Director Airport Operations, San Jose International Airport
- *Terri Gomes* – Deputy Director, Airport Finance and Administration, San Jose International Airport
- *Kim Walesh* – Director, Office of Economic Development, City of San Jose
- *Eric Podnieks* – Real Estate Manager, San Diego County Regional Airport Authority
- *Steve Lord* – Regional Sales Manager, Flight Display Systems, Former FBO Executive

The evaluation criteria were included in the RFP, with each subject area directly correlated to information required in the proposal. A maximum of 1,000 points were possible. The point value and percent of overall points for each criteria area were as follows:

- Revenue to the Airport (400 points/40%)
- Revenue to the General Fund (200 points/20%)
- Quality of Proposed Facilities and Capital Investment (150 points/15%)
- Business and Management Plan (150 points/15%)
- Benefits to the Local Community (100 points/10%)

The Evaluation Panel scored the Signature proposal as follows:

Criteria	Average Score (pts)
▪ Revenue to the Airport	400
▪ Revenue to the General Fund	200
▪ Quality of Proposed Facilities and Capital Investment	148
▪ Business and Management Plan	145
▪ Benefits to the Local Community	<u>98</u>
▪ Total	991

Signature scored a total of 991 out of a possible 1,000 points (99.1%). The Evaluation Panel found the proposal to be both thorough and very high quality, offering excellent opportunities for corporate general aviation activity and services at the Airport. The proposed capital investment is well beyond the minimum required by the RFP. Signature was found to be a financially stable company with strong financial indicators and will likely be a significant economic asset for the City of San José. The Signature proposal offers a strong likelihood of creating construction and permanent jobs, revenues for the Airport and the General Fund, and providing high quality corporate aviation services to the general aviation customer.

#### Adjustment of Lease Boundary and Size

The proposed location and facility layout of the Signature development results in approximately 3.6 acres of unused land at the south end adjacent to the FAA Air Traffic Control Tower (ATC). Operational requirements of the ATC result in line of sight requirements for radio coverage as well as reflectivity considerations for existing radar facilities, restricting the height of buildings in the area. It may be possible to reconfigure the Signature site layout to utilize the 3.6 acre portion of land within the height and reflectivity restrictions at the site. Possible site refinements include shifting the location of the large hangar to the south end of the site, reconfiguring the fuel storage area, or shifting the entire site to the north. Also, it may be necessary for Signature to lease the 3.6 acre portion of land in order to comply with the minimum standards in the event that the portion of the facility to be occupied by Blue City Holdings is separated from the Signature lease premises pursuant to the terms of the proposed Non-Disturbance, Consent, Estoppel and Subordination Agreement, as discussed later in this memo. In order to allow the Signature development to move forward in a timely manner while these issues are being resolved it is recommended that the Administration be authorized to negotiate and execute an amendment to the Lease to adjust the lease boundaries and to expand or contract the lease premises as necessary.

#### Non-Disturbance, Consent, Estoppel and Subordination Agreement

Signature has requested that the City enter into a Non-Disturbance, Consent, Estoppel and Subordination Agreement with Signature and Blue City Holdings. The proposed Non-Disturbance, Consent, Estoppel and Subordination Agreement provides that the City will not interfere with the use and occupancy of approximately nineteen (19) acres of the development by Blue City Holdings, so long as Blue City remains current on all of its sublease obligations, and the Agreement also provides that the City will enter into a new ground lease and operating agreement between the City and Blue City on the same terms and conditions as the ground lease and operating agreement with Signature, in the event that the lease with Signature is rejected in bankruptcy, terminated or otherwise cancelled at any time prior to the end of its fifty (50) year term.

#### Municipal Code Prerequisites

The San Jose Municipal Code sets forth a number of conditions for general aviation development, all of which have been met as described below:



- Municipal Code Section 25.04.330-D requires, in part, that Council review Airport activity levels with forecasts and EIR adequacy prior to proceeding with new general aviation facilities. The annual status reports on the Airport Master Plan prepared and submitted to Council pursuant to Municipal Code Section 25.04.1210 present, assess, and compare Airport activity levels and forecasts, including general aviation. The 2011 annual report was submitted to Council on March 14, 2012, and the 2012 annual report will be submitted to Council prior to this proposed approval of the Signature FBO lease and operating agreement. PBCE has provided the required CEQA determination.
- Municipal Code Section 25.04.330-E requires, in part, that prior to proceeding with new general aviation facilities, the need for such facilities and the funding commitment by the prospective tenant must be demonstrated. The Airport Master Plan expressly calls for expanded development on the west side to accommodate projected general aviation demand. The capital and operational costs of the new FBO facility would be borne entirely by Signature as set forth in the RFP and the proposed lease and operating agreement.
- Municipal Code Section 25.04.530 requires, in part, that all airport user agreements require compliance with the Airport Noise Control Program and any negotiated enforcement provisions. As set forth in the RFP and the proposed lease and operating agreement, Signature would be required to comply with the Airport Noise Control Program, including the curfew enforcement provisions provided in Municipal Code Chapter 25.03.

### **EVALUATION AND FOLLOW-UP**

As described in detail earlier in this memorandum, the RFP selection criteria and the resulting terms and conditions in the recommended ground lease and operating agreement follow Council direction given at the April 3, 2012 City Council meeting. Revenue to the Airport resulting from this action will contribute to reductions in the airline cost per enplaned passenger performance measure in the Strategic Support section of the Airport's operating budget.

### **POLICY ALTERNATIVES**

***Alternative #1: Do not award the Ground Lease and Operating Agreement to Signature Flight Support.***

Pros: None.

Cons: The City would forgo a significant development opportunity, along with \$3 million in guaranteed revenue to Airport, up to \$300 thousand in guaranteed taxes to the region, and the anticipated economic activity and job growth.

Reason for not recommending alternative #1: The Council gave specific direction to the administration to proceed with an RFP for this land, and the recommended proposal has been evaluated as a very highly rated proposal, with significant financial benefit to the Airport and the City. Not awarding the agreement will leave the site remaining vacant until such time as a new RFP process is completed, which may or may not result in proposals as beneficial to the Airport and City as the pending Signature award.

### **PUBLIC OUTREACH/INTEREST**

- ☒ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City **(Required: E-mail and Website posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail and Website posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet the above criteria requiring additional notification; however, as discussed earlier in the memorandum, substantial outreach was performed, including: email notification to 336 interested stakeholders; posting of all information related to this RFP on the Airport's public website; opportunities for interested parties to comment on both the draft RFP and the final RFP with public posting of all 353 responses to questions and comments received; advertising in relevant general aviation publications; and six outreach meetings open to the public including the Airport Competitiveness Committee, Community and Economic Development Committee meeting, and the Airport Commission.

### **COORDINATION**

This item has been coordinated with the City Attorney's office.

HONORABLE MAYOR AND CITY COUNCIL

**Subject: Award of a Ground Lease and Operating Agreement to Signature Flight Support**

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### **FISCAL/POLICY ALIGNMENT**

The proposed Signature development supports the City's strategic economic goals, including encouraging companies and sectors that can drive the San Jose/Silicon Valley economy and generate revenue for City services and infrastructure, and developing a competitive world-class airport.

The San Jose Municipal Code requires that capital projects at the Airport be consistent with the adopted Airport Master Plan. As the development of new general aviation facilities on the west side of the Airport is expressly identified in the Master Plan ("Project G-8"), the proposed Signature FBO lease and operating agreement with is consistent with the Airport Master Plan pursuant to Municipal Code Section 25.04.210(B)(1).

### **CEQA**

Resolution Nos. 67380 and 71451, with Addendum, PP13-022

/s/

William F. Sherry, A.A.E.

Director of Aviation

For questions please contact William F. Sherry, Director of Aviation, at 408-392-3611.

Attachments: Exhibit A: A map depicting the various elements of the Airport  
Exhibit B: Summary of the Atlantic Aviation, Ross Aviation and Signature Flight Support Proposals  
Exhibit C: Letters of Appeal and Responses  
Exhibit D: Current List and Locations of Signature Flight Support Facilities  
Exhibit E: Detailed Summary of the Signature Flight Support Proposal  
Exhibit F: Proposed Site of Signature Facilities  
Exhibit G: Renderings of Proposed Signature Facilities